

Appln. No. 09/704,134
Amdt. Dated August 21, 2006
Reply to Office Action of April 20, 2006

REMARKS

In the Office Action, claims 1-10 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number 5,765,606 to Takemasa in view of United States Patent No. 6,023,916 to Bouthiette and United States Patent No. 6,334,980 to Hayes.

As discussed in Applicant's previous Amendment, the invention of Takemasa is designed to place pills into a vial V which is manually mounted to the holder 33. When dispensing pharmaceuticals into the vial V, the vial V is **manually** aligned and placed over the outlet 33b of the holder 33. Thus, alignment between the vial V and the holder 33 occurs manually not automatically as required by claim 1.

Bouthiette discloses a manual kit that is used to sort pills, tablets or capsules. The pill-sorting device disclosed in Bouthiette is made of two sliding panes with hollow bottom recesses that can be used to insert the pills into the containers of the container-defining sheet. Thus, the mechanism of Bouthiette is simply a manual mechanism which an individual uses to manually sort out individual pills or tablets.

The Examiner's rejection specifically provides that "Takemasa et al discloses an automated pharmaceutical packaging machine in which pharmaceutical products are dispensed from an array of source (7) to a **corresponding funnel 33** (See Figure 8) and then into each cavity of a plurality of **product package cavities (33)** and transferring them into a product package member . . ." (emphasis added). The Examiner further notes that "Takemasa does not

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specifically disclose the pharmaceutical products being dispensed into product package template" however, Bouthiette "discloses a packaging kit with product package template cavities corresponding to cavities of a product package member". The Examiner further finds that although Takemasa and Bouthiette do "not disclose the use of an X-Y mechanical drive to move the package templates", Hayes discloses dispensing "quantities of fluids to specific places on a template which is moved by an X-Y positioning table". The Examiner then concludes that "it would have been obvious . . . to use the X-Y positioning table, as taught by Hayes et al, in the combination of Takemasa et al and Bouthiette in order to more accurately place the products."

Applicant notes that in accordance with the Examiner's rejection as detailed above, the Examiner finds that the holder 33 of Takemasa is equivalent to the plurality of *funnels* of claim 1 and in addition that the *holder* 33 of Takemasa is equivalent to the product package *cavities* of claim 1. Claim 1, however, further requires " . . . relative motion between a corresponding *funnel* and the individual *cavities* . . ." Given that the Examiner finds that the holder 33 of Takemasa is equivalent to Applicant's **funnels and the product package cavities**, the Examiner can not then interpret Takemasa as teaching relative motion between the funnels and the cavities. Although the Examiner relies on Hayes to teach placement of a template under a dispenser, the Examiner does not provide that Hayes teaches relative movement between the corresponding funnels (33) and product package cavities (33) of Takemasa, and in fact such a finding would be impossible as relative motion between an item and itself can not occur. The Examiner simply

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concludes that it would have been obvious to use the X-Y positioning table taught by Hayes in the combination of Takemasa and Bouthiette in order to more accurately place the product. Applicant asserts that such a combination is not obvious. Applicant initially notes that accurate placement of the product within the vial V of Takemasa is not at issue because Takemasa relies on manual placement of the vial V on the holder 33. Because the alignment is occurring manually, Takemasa does not even address the issue of alignment between the vial V with the holder 33. As Takemasa does not teach or suggest alignment between the vial V and the holder 33, there is no motivation to provide more accurate placement of the product as suggested by the Examiner. Thus, there is no teaching or suggestion provided by Takemasa, Bouthiette, or Hayes to combine Hayes with either Takemasa and/or Bouthiette and therefore the Examiner's finding of obviousness is improper.

As with claim 1, claim 6 also requires relative motion between the funnel and the cavities, and therefore is not anticipated nor rendered obvious for the reasons addressed with respect to claim 1. In addition, claim 6 requires a plurality of temporary storage members. Applicant asserts that none of the references cited teach or suggest dispensing pharmaceuticals to a template, transferring the pharmaceuticals from the template to a temporary storage member, and transferring the pharmaceuticals from the temporary storage member to the product package. Because claim 6 is not anticipated nor rendered obvious by the references cited, Applicant respectfully requests consideration and allowance of claim 6.

Claims 7-10 depend from claim 6. Applicant asserts that because claim 6 is allowable,


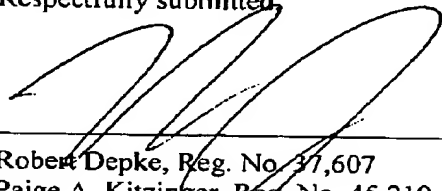
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claims 7-10 are also allowable. Thus, Applicant respectfully requests reconsideration and allowance of claims 7-10.

Applicant asserts that the claims of the application are allowable over the references cited by the Examiner. Should the present claims not be deemed adequate to effectively define the patentable subject matter, the Examiner is respectfully urged to call the undersigned attorney of record to discuss the claims in an effort to reach an agreement toward allowance of the present application.

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Respectfully submitted,



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